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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,980	12/27/2000	Elaine Lee	8600-0010	6822

7590 08/19/2005

ROBINS AND PASTERNAK LLP  
1731 EMBARCADERO ROAD, SUITE 230  
PALO ALTO, CA 94303

EXAMINER
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BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/749,980

Applicant(s)

LEE, ELAINE

Examiner

Jessica R. Baxter

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,5-11,14-16,19,22-24,31,32 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,22 and 31-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-11,14-16,19,23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,660,873 to Nikolaychik et al.

Nikolaychik discloses a composition consisting of a vaso-occlusive member and a bioactive material of fibrin and Factor XIII (Column 5, lines 21-33). Nikolaychik discloses the claimed invention except for the vaso-occlusive member being a coil or a filter.

Nikolaychik discloses that the device may be a prosthetic device or non-prosthetic device that is implanted (Column 4 lines 19-31). These devices are coated with fibrin coating in order to promote healing after implantation into the vascular system. Coils and filters are well-known devices that are implanted into the vascular system. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a coil or a filter as the vaso-occlusive member since these are devices that are well known in the art to be implanted into the vascular system.

3. Claims 1, 7, 8, 9, 10, 19, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,690,666 to Berenstein et al. in view of U.S. Patent No. 4,414,976 to Schwarz et al.

Berenstein discloses a vaso-occlusive coil that is used with a tissue adhesive (Column 3 lines 14-24). Schwarz teaches that tissue adhesive for use in vascular surgery may be made with Factor XIII, plasminogen activator inhibitor or plasmin inhibitor in order to stimulate wound healing (Column 1 lines 37-44). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Berenstein with the tissue adhesive of Schwarz in order to promote healing.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolaychik et al. '873, as applied above, further in view of U.S. Patent No. 6,231,590 to Slaikeu et al.

Nikolaychik, as modified, discloses the claimed invention except for the member being plasma-treated. Slaikeu teaches that devices are plasma treated in order to attract platelets and thrombogenic proteins to the device (Column 4 lines 57-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Nikolaychik, as modified, with a plasma treatment in order to attract platelets and thrombogenic proteins and thus promote healing at the implantation site.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolaychik et al. '873, as applied above, further in view of U.S. Patent No. 5,891,192 to Murayama et al.

Nikolaychik, as modified, discloses the claimed invention except for the vaso-occlusive member being subjected to ion-implantation. Murayama teaches that ion implantation is used to alter the surface properties, such as thrombogenicity and endothelial cellular migration and adhesion, of the device (Column 3 lines 21-29). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Nikolaychik, as modified, with ion-implantation in order to alter the thrombogenicity and endothelial cellular migration and adhesion.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolaychik et al. '873, as applied above, further in view of U.S. Patent No. 6,526,979 to Nikolchev et al.

Nikolaychik, as modified, discloses the claimed invention except for the vaso-occlusive member being microtextured. Nikolchev discloses that an occlusive member is microtextured in order to promote tissue ingrowth and enhance the occlusion of the vessel (Column 14 lines 9-37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Nikolaychik, as modified, with the microtexturing of Nikolchev in order to enhance tissue ingrowth and occlude the vessel.

#### ***Response to Arguments***

7. Applicant's arguments filed 26 May 2005 have been fully considered but they are not persuasive.

8. Berenstein et al. '666 in view of Schwarz et al. '976

Applicant argues that Berenstein cannot be combined with Schwarz since there is no suggestion to combine. The examiner maintains that one would be motivated to combine Schwarz with Berenstein, since Berenstein uses tissue adhesives (see abstract) and Schwarz teaches a tissue adhesive that is used in the vascular system to stimulate healing (Column 2 line 64-Column 3 line 7).

9. Berenstein et al. '666 in view of WO/27455 to Boock et al.

It is noted that this rejection of claim 31 was withdrawn after the 8 October 2003 Office Action. The rejection was withdrawn in the action mailed 28 April 2004. It appears that the rejection was withdrawn because the claim (31) was withdrawn. After reviewing the

Art Unit: 3731

Election of 02 April 2004, the status of claim 31 should be withdrawn. Therefore, this rejection is withdrawn only because the status of this claim is withdrawn.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R. Baxter whose telephone number is 571-272-4691. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica R Baxter  
Examiner  
Art Unit 3731

*jrb*  
jrb

  
EDUARDO C. ROBERT  
PRIMARY EXAMINER